XI-HC-22

उच्च न्यायालय, छत्तीसगढ, बिलासपुर

(23)

आदेश पत्रक

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRIMINAL APPEAL NO. 582 of 2005

APPELLANT	:	Murli S/o Satte Singh aged about 21 years, Occupation agriculture, R/o village Mandagaon, P/s Antagarh, Dist. Kanker, C.G.
	Versus	
NON-APPELLANT	:	State of Chhattisgarh, Through P/s Antagarh Distt. Kanker.

Present:

Mr. A.K. Dixit, counsel for the appellant.

Mr. S.K. Agrawal, Panel Lawyer for the State.

ORAL JUDGMENT

Dhirendra Mishra, J

20.09.2007

This criminal appeal is directed against the judgment of conviction and order of sentence dated 8th April 2005 passed in S.T.No. 305/04 whereby learned Additional Sessions Judge, Kanker has convicted the appellant under Section 307 of the IPC and sentenced him to undergo R.I. for 10 years and pay a fine of Rs.500/-, in default of payment of fine to further undergo imprisonment for 15 days.

Case of the prosecution in brief is that on 31st August 2004 at about 11.00 p.m. when victim Sattesingh was sleeping in his home, his son, the present appellant, assaulted him with axe thrice on his neck, as a result of which he sustained grievous

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injuries. Sattesingh went to the house of Bisahuram and informed him about the incident, whereupon First Information Report of Ex.P/1 was lodged by Bisahuram on 1.9.2004 at about 10.30 a.m. It is further case of the prosecution that the father and his son, the present appellant, used to quarrel in connection with agricultural operation. The villagers had tried to convince the appellant not to engage in quarrel with his father some one month back. However, he nourished animosity against his father and threatened him that he shall murder him. The appellant also admitted on the date of incident that he has assaulted his father with axe.

After the incident Sattesingh was sent for medical examination to Community Health Centre, Antagarh where Dr. A.R. Verma examined him and gave his report of Ex.P/2. Looking to precarious condition of the victim, his dying declaration was recorded by Dr. A.R. Verma. After completing investigation charge sheet was filed in the Court of Judicial Magistrate First Class, Jagdalpur from where the case was received on transfer by learned Additional Sessions Judge for trial.

During trial the prosecution examined 8 witnesses. Thereafter, statement of the accused was recorded under Section 313 of the Cr.P.C. in which he denied the allegations and pleaded innocence and false implication. The trial Court, however,

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convicted and sentenced the appellant as mentioned in paragraph-1 of this judgment.

Learned counsel for the appellant submits that in fact, axe was seized from Rambharose as is evident from the statement of this witness who has been examined as PW-4. In the alternative it was argued that the appellant has been convicted under Section 307 of IPC and sentenced to undergo R.I. for 10 years, therefore, looking to the fact that he is a young boy aged 21 years on the date of incident and he is the first offender, his sentence may be modified to the period already undergone by him as he is in jail since 1.9.2004 and as such, already completed three years of jail sentence.

On the other hand, learned counsel for the State supported impugned judgment of the trial Court.

I have heard learned counsel for the parties and have perused material available on record as also the impugned judgment.

Conviction of the appellant is based on the statement of victim Sattesingh, father of the appellant, as also that of Bisahuram, who has corroborated the version of Sattesingh. Witnesses Bharatram (PW-5) and Sanker (PW-6) have also stated that Sattesingh informed them that his son Murli has assaulted

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him and even the appellant Murli confessed before Bharatram that he had in fact assaulted his father.

Dr. A.R. Verma (PW-2) has examined victim Sattesingh after the incident on 1.9.2004 and gave his injury report of Ex.P/2. He has proved the injury report and stated that on examination he found lacerated wound of size 3 x 2 x 1 inches over the neck below angel of mandible, incised wound of 3 x 1 x 1 inches above neck thyroid cartilage and incised wound of 2 x 1 x 1 inches lateral to clavicle right side. He has stated that all the injuries were grievous in nature and the same were sufficient to cause death in the ordinary course. He has further stated that he had referred the patient for treatment to some higher treatment centre. He has also stated that he had recorded dying declaration of Ex.P/7 in presence of Dr C.L. Sahu. Thus, from the evidence of this witness it is evident that injures present over the person of victim were sufficient in the ordinary course of nature to cause death.

Sattesingh (PW-3), father of the appellant, has stated that on the date of incident when he was sleeping in his house after taking meal, his son Murli assaulted him with axe on his neck and fled thereafter. He saw him running away with axe. He went to the house of Bisahuram, the complainant, and narrated about the incident that the appellant with an intention to murder him assaulted him with axe on his neck. Thereafter, the villagers ran

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after Murli, caught him and kept him throughout the night. He has also stated that a month before the incident, he had reprimanded Murli for not doing any work, upon which the appellant had quarreled with him and in this connection there was a meeting in the village where the Sanker of the village had persuaded the appellant. In cross-examination, this witness has stuck to his claim that in fact axe blows were inflicted by his son Murli. Statement of this witness is corroborated by the statement of Bisahu, the complainant, who lodged the report mentioning therein name of present appellant as the person who assaulted Sattesingh. PW-5 Bharatram has also corroborated the statement of Sattesingh and stated that in the morning when he met the accused he told him that he has assaulted his father on account of some quarrel with him and thereafter, they had went to the police station along with accused, Sattesingh and the weapon of offence axe. There is evidence available on record that the appellant used to frequently quarrel with his father and in this connection there was a meeting in the village.

Thus, from the evidence available on record, this Court is of the considered opinion that there is legal and clinching evidence regarding involvement of the appellant in crime in question and the Court below has not committed any illegality or infirmity in convicting the appellant under Section 307 of the IPC and imposing sentence upon him accordingly.

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Now coming to the question whether the sentence of 10 years' RI imposed on the appellant was proper or whether the appellant was entitled for lenient consideration for the purpose of imposing sentence?

After going through the evidence on record, it is evident that the appellant, son of victim Sattesingh, assaulted his father while he was asleep with a lethal weapon thrice over vital part of the body i.e. neck. Conduct of the appellant in assaulting his father thrice while he was sleeping in his home, clearly indicates his intention to murder his father. Thus, in the facts and circumstances of the case, sentence of 10 years' RI imposed on the appellant by learned trial Court is just and proper and the same does not call for interference.

In the result, the appeal being devoid of substance is accordingly dismissed.

Sd/-
Dhirendra Mishra
Judge

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